

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ANTONIO DAVIS,

Plaintiff,

vs.

NEVADA DEPARTMENT OF  
CORRECTIONS, *et al.*,

Defendants.

Case No. 2:13-cv-01727-JAD-CWH

**ORDER**

This matter is before the Court on Defendants' Motion for Extension of Time to File Response to Plaintiff's Complaint (#10), filed on October 30, 2013. Defendants were served with a summons and complaint on October 9, 2013. Pursuant to Federal Rule of Civil Procedure 12(a)(1)(A)(i), Defendants' responsive pleading was due on October 30, 2013. Defendants request a 45 day extension of time because defense counsel first received this action on October 28, 2013 due to staff absences and computer issues.

Local Rule 6-1(b) provides that every motion to extend time made after the expiration of a deadline shall not be granted unless the moving party demonstrates that the failure to act was the result of excusable neglect. In evaluating excusable neglect, the court considers the following factors: (1) the danger of prejudice to the opposing party, (2) the length of delay and its potential impact on the proceedings, (3) the reason for the delay, and (4) whether the movant acted in good faith. *See Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395, 113 S.Ct. 1489, 123 L.Ed.2d 74 (1993); *see also Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1261 (9th Cir. 2010).

The Court notes that Defendants failed to cite the correct standard in requesting this extension. Defendants requested an extension of the responsive pleading deadline on the day that it was set to expire. As a result, they are required to provide an excusable neglect justification.

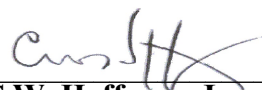
1 Nevertheless, the Court finds that despite Defendant's failure to cite the correct standard, an  
2 extension of the responsive pleading deadline is warranted. However, the Court finds that a 21 day  
3 extension is sufficient rather than the requested 45 days. There is little danger of prejudice to  
4 Plaintiff as this is early in the action, the court will only grant a 21 day extension, and Defendants  
5 acted in good faith in seeking the extension two days after defense counsel was assigned.

6 Based on the foregoing and good cause appearing therefore,

7 **IT IS HEREBY ORDERED** that Defendants' Motion for Extension of Time to File  
8 Response to Plaintiff's Complaint (#10) is **granted in part and denied in part**.

9 **IT IS FURTHER ORDERED** that Defendants shall have 21 days from the date of the  
10 Order to file a responsive pleading.

11 DATED this 1st day of November, 2013.

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14 **C.W. Hoffman, Jr.**  
15 **United States Magistrate Judge**  
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